

Exhibit 2

U.S. Fish and Wildlife Service's Response to 60-day Notice



United States Department of the Interior

FISH AND WILDLIFE SERVICE



Post Office Box 1306
Albuquerque, New Mexico 87103

In Reply Refer To:
FWS/R2/ES-ARD/078867

Mr. Charles Yates
Pacific Legal Foundation
555 Capitol Mall, Suite 1290
Sacramento, California 95814

Dear Mr. Yates:

We received your letter, dated April 12, 2023, stating your intent to sue regarding our listing determination for two distinct population segments of the lesser prairie-chicken under the Endangered Species Act (Act) on behalf of the Kansas Natural Resource Coalition, Cameron Edwards, Lone Butte Farm LLC, Schilling Land LLC, and JDC Farms Inc.

Your letter alleges we violated the Act and the Regulatory Flexibility Act when we determined that the Northern Distinct Population Segment of the lesser prairie-chicken warranted listing as a threatened species and the Southern Distinct Population Segment of the lesser prairie-chicken warranted listing as an endangered species under the Act. Specifically, your letter alleges that the 4(d) rule fails to explain how it is necessary and advisable, it ignored effects on private landowners and local governments within the necessary and advisable analysis, and that the Act does not prohibit the Service from considering economic costs when making decisions pursuant to Section 4(d). In addition, your letter alleges that the 4(d) rule is *ultra vires*, that the 4(d) rule is arbitrary and capricious because we failed to consider all relevant factors, and that we violated the Regulatory Flexibility Act.

We are committed to the conservation and protection of wildlife, including the lesser prairie-chicken. We maintain that our determination to list two distinct population segments of the lesser prairie-chicken and 4(d) rule are correct and complied with the Act. This finding was based on the best available science, applied the relevant ESA policy standards appropriately, and we provided valid reasons for this decision (87 FR 72674).

If you would like to discuss this matter further, please feel free to contact me at 505-248-6282 or amy_lueders@fws.gov.

Sincerely,

Regional Director